

1 GEORGE SINNOTT

2 federal government. It's a \$5 billion plan with 1.1
3 million participants. We had an employee health service
4 that had 24 different nursing stations at various parts
5 of the state of New York. We had a Municipal Services
6 Division where we have 104 municipal Civil Service
7 offices scattered throughout the State of New York.

8 We had a budget deficit where I was involved
9 constantly time frame wise with the Division of the
10 Budget, counseling other department heads of almost
11 every state agency in the State of New York. I had to
12 write this task force report on the Civil Service. I
13 did big picture. I did policy, and I tried to do it to
14 the best of my ability. I did not micromanage. I never
15 have in any capacity where I've ever worked. I viewed
16 myself to be the CEO, and I viewed Tom Pillsworth and
17 the division directors to be the operating officers, tom
18 Pillsworth to be the chief operating officer and the
19 division directors to be the primary operating officers
20 in their respective divisions.

21 Q. So when you received a complaint from
22 Bouldin/Simpson of the sort you previously described,
23 you gave it to him and requested some report back from
24 him, or you just gave it to him and expected him to deal
25 with it?

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2 A. My recollection is that I gave him a heads-up.
3 I have it in my head that I might have even asked them
4 to hand them in, but I don't specifically recall.

5 Q. Do you recall meeting with Simpson and Bouldin
6 about this issue?

7 A. I don't know if we met one-on-one or not. You
8 know, just in the way of correspondence, Mr. Sussman,
9 you should be aware that we had a central correspondence
10 unit that had four full-time people just handling mail
11 that came in to the agency.

12 Q. Okay. But this is not mail coming in as such;
13 this is from your own staff.

14 A. Right.

15 Q. Okay.

16 A. By the way, they also handled
17 interdepartmental memos.

18 Q. Okay. So you have a recollection of having
19 the concern expressed. You believe you would have, if
20 you don't remember exactly, given this off to
21 Pillsworth. And your expectation at that point was that
22 he might have met with them; is that accurate? You
23 don't remember, but --

24 A. I don't.

25 Q. Okay. Did you hear anything else about their

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2 concern, to your memory?

3 A. Well, there's something larger there that was
4 a general sense.

5 Q. Okay. What was that?

6 A. Mert Simpson and James Bouldin were active in
7 the affirmative action community, the Affirmative Action
8 Advisory Council. Part of their jobs was going to
9 different agencies and meeting with people of like title
10 and position. And there was an undercurrent as a result
11 of friendships and professional relationships that
12 people in the Division of Diversity Planning and
13 Management, not just Mert and Jim, but others, and there
14 was a dynamic within that community that was not
15 necessarily a dynamic over the State of New York or
16 anywhere near as a whole, is my point.

17 Q. Well, what was the dynamic with regard to the
18 battery test?

19 A. There were people, I think, who wanted change
20 and there were people who did not want change.

21 Q. In this community, though, in the affirmative
22 action community, to use your term, did you sense or
23 believe they opposed the battery test?

24 A. I had a sense afterwards that they did. When
25 I say "they," I mean a very, very small minority. You

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2 should know that I made a point, certainly more than any
3 of my predecessors, in that position. There is a group
4 called the Affirmative Action Advisory Council, and they
5 were really the primary movers and shakers in the
6 individual agencies relative to affirmative action
7 issues. There was -- I don't know if it was a charter
8 or if it was legislation, but prior to my arrival, I
9 believe it was legislation creating the Affirmative
10 Action Advisory Council, and they were to meet
11 quarterly. And prior to my arrival, they had met once
12 in eight years. After my arrival, we met quarterly. I
13 met constantly with the elected members of the
14 Affirmative Action Advisory Council.

15 Q. Who was on this council, just so we're clear?

16 A. I believe there was one -- there was one
17 president who was president, I believe, for six or eight
18 years. Omeye Cooper.

19 Q. What agency was Cooper with?

20 A. Criminal Justice Services or Probation. I
21 don't know. It was something out of my agency.

22 Q. Just so we're clear, are these individuals
23 affirmative action officers for different agencies who
24 have gathered together in this council?

25 A. Correct.

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2 Q. Okay.

3 A. And prior to my arrival --

4 Q. You said that.

5 A. -- they didn't meet. They hadn't -- they had
6 no central way of communicating.

7 Q. Okay.

8 A. I provided services in the way of computer,
9 monitor, software, hardware, help put together a
10 newsletter. I spoke at probably every Affirmative
11 Action Council annual meeting that they had. And I used
12 to get mixed reviews, because I would hear internally on
13 occasion or the whisper or the voice of Mert and Jim
14 Bouldin, and yet I would go to an Affirmative Action
15 Advisory Council meeting and I would have people come up
16 and shake my hand and say, "Thanks. This is the first
17 time I had a chance to take an exam in six years. I
18 passed. I just got promoted." So I got a mixed sense.

19 Q. Let me ask you this. Did the affirmative
20 action -- this advisory council, to your knowledge, ever
21 do any study of the results of the test? Apart from the
22 individual, "I got a promotion; I didn't get a
23 promotion," did you see any kind of data which they
24 generated?

25 A. No.

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2 Q. Did you see any report which that group
3 generated regarding the test and how it impacted people
4 of color or didn't?

5 A. I don't believe I did. To my knowledge, there
6 wasn't a report. To my knowledge.

7 Q. So you don't know of any such report?

8 A. Correct. Yes.

9 Q. Now, from your own agency, putting aside these
10 various offices, did your own agency give you any report
11 on adverse impact at any time, to your knowledge?

12 A. Not to my knowledge.

13 Q. Did you ever ask for one in light of these
14 rumblings, rumors? Did you ever talk to anybody and
15 say, "What's the real story here?"

16 A. Yes.

17 Q. You did. Who did you talk to, other than the
18 lawyer, if you talked to anyone other than the lawyer?

19 A. I would have spoken to the director of
20 testing.

21 Q. Beninati?

22 A. Correct.

23 Q. Did Beninati tell you that they had done some
24 sort of study on adverse impact and what it showed? Did
25 he tell you that?

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2 A. He had indicated to me that, in his view, it
3 was a valid exam and that these criticisms were not
4 accurate.

5 Q. Did he tell you that he had studied adverse
6 impact, one way or the other?

7 A. I don't recall the term "adverse impact," if
8 that was specific.

9 Q. Okay. Well, adverse impact --

10 A. He indicated to me that he had reviewed the
11 examinations. We had --

12 Q. This is personal, you and Beninati?

13 A. Yes.

14 Q. Do you know when this happened?

15 A. No.

16 Q. Did it happen after that Complaint was filed?

17 A. I don't know when it happened.

18 Q. Did it happen more than once that you had that
19 kind of conversation directly with Beninati?

20 A. I had --

21 Q. When he said it was a valid exam. That's what
22 I'm asking you.

23 A. Yes.

24 Q. You did. More than once?

25 A. I believe so.

1 GEORGE SINNOTT

2 Q. Okay. Did he ever make any claims to you
3 about the racial impact of the exam? If you don't want
4 to use the word "adverse impact," racial impact?

5 A. We discussed -- I discussed with him in
6 general terms the notion that when we set this up, we
7 were going to have subject matter experts and people
8 from the minority community have input relative to the
9 makeup of the examination.

10 Q. This was your idea?

11 A. I believe it was.

12 Q. Did he tell you that the agency had been doing
13 that for 20 years?

14 A. He --

15 Q. Both of those things?

16 A. He was familiar with -- he was familiar with
17 what I was discussing. And I had indicated always from
18 the get-go that because this was different and because
19 it was novel, we wanted to be assured that what we were
20 giving was valid.

21 Q. Okay. Let's just separate for a minute valid
22 from the racial impact. You're answering about valid.
23 And we'll get to valid in a little bit.

24 Understanding that you're a generalist, by
25 your own statement, did you have any curiosity, as a

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2 commissioner who had this novel idea and saw the novel
3 idea being implemented, did you have any curiosity as to
4 how the different groups in the state were doing on this
5 exam?

6 A. Not more than the curiosity I had with I guess
7 every other damn thing that was going on at the time.

8 Q. Well, you testified here today about a history
9 of commitment, including your thesis to affirmative
10 action, to inclusion, to equal opportunity. Now you're,
11 by your statements, initiating this novel idea.

12 A. Okay.

13 Q. So what I'm asking you is, in the context of
14 initiating this novel idea, did you -- and you may not
15 have, but did you ever think to yourself, what impact is
16 this going to have on the inclusion of minorities in the
17 state's work force? Did you ever think about that?

18 A. Yes.

19 Q. You did. Okay. Did you ever get any kind of
20 data on promotion rates of minorities, to your
21 recollection?

22 A. I don't remember getting data. I remember
23 being told.

24 Q. You were told something. By whom?

25 A. I remember being told by the people in Testing

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2 that they deemed the test to be appropriate.

3 Q. Okay. Now I'm asking you, apart from their
4 deeming it appropriate or not deeming it appropriate,
5 I'm asking you a different question.

6 A. Okay.

7 Q. The test is being taken, as you said before,
8 by thousands of people around the state, so did the
9 people in Testing give you any understanding of how
10 different groups were doing on the test?

11 A. I don't even know if they -- I don't even know
12 if they had that data or collected that data prior to
13 anything happening with the EEOC.

14 Q. Okay. And you're sitting here today and
15 you're telling me before the EEOC, you're not even sure
16 they had data available to them as to the racial
17 breakout of test results? You're not sure?

18 A. I don't know.

19 Q. Okay.

20 A. I --

21 Q. Okay.

22 MR. KERWIN: Wait a minute. He's
23 finishing his answer.

24 A. I didn't even know if we could collect that
25 data prior to an examination.

1 GEORGE SINNOTT

2 Q. You didn't know if it was collected?

3 A. No, I didn't know if it was legally
4 appropriate to collect data prior to either a test or
5 prior to appointment from a list.

6 Q. Well, did you know as a factual matter whether
7 it was being collected?

8 A. I don't know.

9 Q. Did you ever ask any of the people in Testing
10 or Classification whether it was being collected?

11 A. In a general sense, I asked people if there
12 was merit to what was being indicated in correspondence
13 or in conversations or in whispers or what have you
14 from --

15 MR. SUSSMAN: Move to strike.

16 Q. The question is a simple question. Did you
17 ever ask anyone whether the race of the applicants, the
18 test takers, was collected by the Division of Testing or
19 the Department of Civil Service?

20 A. My instinct would tell me that I probably did,
21 but I don't know if -- I don't recall if I did.

22 Q. Do you remember the answer?

23 A. The answer to what?

24 Q. That question, back in the time that you
25 became the commissioner. Was it being --

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2 MR. KERWIN: He said --

3 A. I said I don't even know if I asked it is my
4 point.

5 Q. Okay. Very well.

6 MR. KERWIN: Can we take a break and get
7 more water?

8 MR. SUSSMAN: Sure.

9 (Brief recess taken.)

10 BY MR. SUSSMAN:

11 Q. Mr. Sinnott, did you have a cabinet that met
12 regularly when you served as the lead commissioner of
13 Civil Service?

14 A. I met with division directors.

15 Q. As a group?

16 A. Actually, I think I did for maybe the first
17 year or so.

18 Q. Okay.

19 A. Then after that, as I was traveling much more
20 extensively and getting involved in other things, we --

21 Q. It stopped?

22 A. Yeah.

23 Q. During the first year, we're speaking of '95,
24 '96, that time frame?

25 A. Uh-huh. Primarily '95.

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2 Q. So you remember that by '96, that process had
3 pretty much stopped?

4 A. Yes.

5 Q. Do you know if Mr. Pillsworth in your absence
6 continued to convene as the chief operational officer of
7 those kinds of cabinet level meetings, or do you not
8 know?

9 A. I know he met with -- he always met and
10 conferred with division directors. Whether he did it
11 collectively in the same room, I don't know.

12 Q. Okay. Do you have any knowledge of what a DIF
13 means, D-I-F? Have you ever heard that term?

14 A. I don't believe so.

15 Q. Do you have any knowledge of what the term
16 "item analysis" means in the testing area? Have you
17 ever heard that term?

18 A. I've heard it.

19 Q. Do you know what it means?

20 A. No.

21 Q. Do you have any understanding of the
22 difference between content validity, criterion
23 referenced validity, and construct validity? Do those
24 terms have any particular meaning to you?

25 A. They have no meaning to me.

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2 Q. Do you have any knowledge of what BIG is,
3 Blacks in Government?

4 A. Yes.

5 Q. Did you have any meetings with Blacks in
6 Government during the time that you were the
7 commissioner of Civil Service, to your memory?

8 A. No, I don't ever remember being asked.

9 Q. You were never invited to a meeting and never
10 attended a meeting, to your knowledge?

11 A. Never invited or attended.

12 Q. You know who Paul Kaiser is?

13 A. I do.

14 Q. We marked at Paul Kaiser's deposition this
15 document.

16 A. The agency received an award in --

17 Q. Hold on. Hold on. Take your time.

18 A. Okay.

19 Q. We marked at his deposition this document,
20 which is the Promotion Test Battery Program Assessing
21 Managerial Competencies, New York State, prepared for
22 IPMA Assessment Council, Conference on Personnel
23 Assessment, June of '05. That's Kaiser 33.

24 A. And your question?

25 Q. Are you familiar with this document? I know

1 GEORGE SINNOTT

2 you're pictured at the end thanking IPMA, but apart from
3 that, are you familiar with it?

4 A. Would that be the handsome gentleman on the
5 left? Huh-uh.

6 Q. Appears to be. Looks a lot like you today,
7 sir.

8 In any event, do you have any knowledge of
9 this particular document? Did you go to this meeting,
10 to your recollection?

11 MR. KERWIN: Wait a minute. Did he
12 answer your last question?

13 MR. SUSSMAN: I thought he said no.

14 A. I don't recall seeing this document, and I
15 don't believe I went to Arlington, Virginia.

16 Q. There was an award, you started mentioning,
17 given in 2000 by IPMA called the Innovations Award.

18 A. Actually, I was going to mention another award
19 too.

20 Q. All right. Let's talk about this award first.

21 A. Okay.

22 Q. Do you have any knowledge of this award?

23 A. Yes.

24 Q. Okay. Do you know whether it was given for
25 the battery?

1 GEORGE SINNOTT

2 A. Correct.

3 Q. And did you speak with anyone in reference to
4 this award? Did anybody call you about it, to your
5 recollection? This IPMA, I-P-M-A?

6 A. Right. I've spoken at IPMA conferences, but I
7 don't believe I ever addressed the -- there are
8 subsections. I did their general conferences.

9 Q. As far as you remember, you don't remember
10 this being addressed when you were there, the battery
11 test?

12 A. I remember I was getting an award for it.

13 Q. I'm saying when you were there and spoke, you
14 don't remember addressing this issue?

15 A. Well, when I spoke, I'd address it.

16 Q. You did address it?

17 A. At the times I spoke at IPMA conferences, it
18 was to talk of the new New York State Civil Service, and
19 the promotion test battery was one of the components of
20 eight different things; and in that sense, I would give
21 a general overview of what it was and how we had tested
22 thousands of people who were not provided that privilege
23 in prior years.

24 Q. Okay. And were there any panels that you
25 participated on, do you have any recollection of?

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2 A. I was a keynote speaker at a number of those
3 different functions regionally and nationally. I don't
4 know anything specific about a panel.

5 Q. Okay. And you were mentioning there was some
6 other award. What was the other award you wanted to
7 talk about?

8 A. Well, actually, we received -- I was
9 privileged to receive it on behalf of the agency, the
10 Employee Round Table Award that was presented to me by
11 Vice President Al Gore, and it was a result of all of
12 the changes that had been made at the Department of
13 Civil Service, and I believe we were voted the best
14 state department in the United States. And one of the
15 agencies that was involved -- it was like a conglomerate
16 of, I believe, 16 or 26 different national
17 organizations -- and BIG was one of those that
18 participated in presenting us that award.

19 Q. What year was this?

20 A. Maybe '98 or '99.

21 Q. Had you presented about the battery to that --
22 to get that award, was that one of the things you
23 submitted in furtherance of getting an award?

24 A. The whole package which you had showed
25 earlier.

1 GEORGE SINNOTT

2 Q. This package?

3 A. No, not that package.

4 Q. The report?

5 A. The report.

6 Q. From '95?

7 A. Correct.

8 Q. Okay. I got you. And your understanding was
9 that the award from the vice president in '98 was, in
10 part, based on the report that you prepared a few years
11 earlier?

12 A. I believe it was primarily solely on the
13 report and the follow-up action as a result of that
14 report. There was a great deal of interest as a result
15 of Governing Magazine having written a cover story on
16 the New York State Department of Civil Service following
17 the institution of all of these recommendations.

18 Q. Okay. Now, in the period after the Complaint
19 was filed, the charge was filed by the individuals,
20 Mr. Simpson, Ms. Ross, and others, did you go to speak
21 to the EEOC yourself on any occasions?

22 A. No.

23 Q. Did you have any conversations by phone with
24 anyone from the EEOC?

25 A. No.

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2 Q. Did you speak to anyone in the Justice
3 Department concerning this matter?

4 A. I don't believe I discussed it with anybody
5 outside the agency.

6 Q. So as far as you can recall, you don't recall
7 being at a meeting either in Albany or Washington or
8 New York City with anybody from either of those
9 agencies?

10 A. Not to my recollection.

11 Q. Who did you brief regarding agency business
12 from the governor's office? Did you have a staff person
13 you interfaced with?

14 A. Primarily James Natoli was director of state
15 operations.

16 Q. Did he remain in that position through the
17 early part of 2000?

18 A. I believe he did. No. Actually, no. I don't
19 know the year 2000. He was reassigned -- he was out of
20 there when I left the Department of Civil Service, but
21 I --

22 Q. Okay. When was that?

23 A. I left in April of '04. I don't recall
24 whether Mr. Natoli left in 2000 or 2002 or 2003.

25 Q. Did Mr. Natoli and you ever have any

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2 conversations about the battery exam?

3 A. Not specifically, no.

4 Q. Did you directly brief the governor regarding
5 the exam?

6 A. No.

7 Q. When correspondence came in to your attention
8 at the agency, was there a standard protocol for how the
9 correspondence was to be handled?

10 A. I believe so.

11 Q. What was it, as you remember it?

12 A. I don't know.

13 MR. SUSSMAN: Mark as Exhibit 106.

14 (Plaintiffs' Ex. 106 - NYS OMCE marked
15 for identification.)

16 BY MR. SUSSMAN:

17 Q. Take a look at 106. The first question I'm
18 going to have for you is, do you know who Barbara Zaron,
19 Z-A-R-O-N, is?

20 A. Yes, I do. I know her.

21 Q. I'll go to particular parts of this in a
22 moment. Do you know Barbara Zaron from her service with
23 the Organization of New York State Management
24 Confidential Employees or otherwise?

25 A. I know her professionally and socially as a

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2 result of just having worked together over the years.

3 Q. Did you know her in 1999 in that way?

4 A. I did. We used to do annual TV shows together
5 on the state work force.

6 Q. The first two pages of this document represent
7 a letter from her to you dated March 11, 1999. And
8 "Dear Commissioner Sinnott" seems to be crossed out and
9 "George" is written there.

10 A. Uh-huh.

11 Q. Do you have any recollection of this letter?

12 A. I have a recollection of getting numerous
13 letters from Barbara Zaron.

14 Q. Did you get them directly, or were they --

15 A. I don't know. I've seen them. Whether they
16 came to others first or not, I wouldn't know.

17 Q. This particular letter relates to what she
18 calls "concerns about the possible negative ethnic
19 impact of the results of Examination No. 04-142, Chief
20 of Mental Health Treatment Services, M5." Do you see
21 that?

22 A. Yes.

23 Q. Do you have any recollection of that issue?

24 A. I can give you a general recollection.

25 Q. You can?

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2 A. Of correspondence from Barbara Zaron.

3 Q. On that issue?

4 A. On correspondence in general.

5 Q. Okay.

6 A. And that recollection is that I never
7 comprehended what it was she was asking for, nor did I
8 understand the technical aspects of percentages and
9 things of that nature that she inquired of.

10 Q. Okay. The document that's second in the
11 exhibit is a letter from October 1st, 1997. And that
12 has in it a chart on page 2 which has certain --
13 displays certain data relating to both gender, race,
14 national origin. Do you have any recollection of
15 getting this?

16 A. I do.

17 Q. You do.

18 A. Not this specific, as I indicated earlier. A
19 number of different writings from Barbara Zaron.

20 Q. When you got a document which had statistical
21 information or a type of analysis, at least, that you
22 didn't have a background in, did you speak to Tom
23 Pillsworth about that, typically?

24 A. That would normally be the routine.

25 Q. And Tom Pillsworth had a more technical

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2 background than did you in testing?

3 A. Yes. I have no technical background in
4 testing. Never did.

5 Q. So he had, I say, a more technical background
6 than you.

7 A. Yes.

8 Q. I think you made clear your background in that
9 regard.

10 Now, did you ever learn what the term "pass
11 rates" meant, or not really?

12 A. I'll answer that by, I guess, indicating a
13 shortcoming on my behalf. I don't -- I didn't then and
14 I don't to this day understand what a raw score is. I
15 don't understand the difference, and I tried, obviously
16 not enough, between what's a test and what's an exam. I
17 thought a test was a test and an exam was a test, but
18 testing people tell me I'm off target, which is a nice
19 way of saying, "Hey, Commissioner, you're not too swift
20 when it comes to this."

21 Q. Do you know whether the battery, what you just
22 said, is a test or an exam?

23 A. It's one or the other.

24 Q. You don't know which?

25 A. No.

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2 Q. Okay. Can you articulate the difference
3 between the two, or not really?

4 A. Not really.

5 Q. Okay. Do you have any recollection of sitting
6 and talking with Barbara Zaron about her issue or issues
7 as addressed in the letters that are part of this
8 document? Do you have any memory of that?

9 A. I don't, but -- I don't.

10 Q. Okay. That's fine. I'm looking at pages 22
11 and 23 of this document, which is somewhat in. There's
12 a letter dated June 29, 1999, from you. I want to ask
13 you about that letter. Can you find it? It's in --

14 A. I'm sorry. I'm just thinking. I know I met
15 with Barbara Zaron and Joe Sanno (phonetic) on one of
16 these things.

17 Q. Maybe this document will trigger your memory
18 about it.

19 A. I'm sorry?

20 Q. Maybe the June 29th letter of '99 will trigger
21 you.

22 A. Okay.

23 Q. It may be a wrong assumption, but I'm assuming
24 that someone wrote this letter for you as the
25 commissioner?

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2 A. That's a good assumption.

3 Q. There aren't initials at the bottom, so do you
4 have any idea who wrote this particular letter?

5 A. No. I believe my secretary put her initials
6 at the bottom of my correspondence.

7 Q. But there are no initials here, are there?

8 A. No.

9 Q. Was there a delegation that you can remember
10 as to, in a matter like this involving testing and
11 questions of testing, who would have written it?

12 A. On subject matters that I was not well versed,
13 I would defer to Tom Pillsworth to either draft a letter
14 for my signature or have somebody conversant in the
15 subject matter to draft a letter for my signature.

16 Q. Okay. You told us earlier, sir, that you left
17 Civil Service in, I believe you said, the spring of
18 2004?

19 A. April of 2004.

20 Q. Where did you at that point go?

21 A. I went to become the chief executive officer
22 of the New York State Bridge Authority.

23 Q. Is that what you're still doing?

24 A. Correct.

25 Q. Is that also in Albany?

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2 A. No. That's in Highland, New York, in the
3 Mid-Hudson Valley.

4 Q. And that's where your office is?

5 A. That's correct. I have an office here in
6 Albany as well, but my main office is in Highland,
7 New York.

8 Q. Did you remain a commissioner of Civil Service
9 after that?

10 A. No.

11 Q. Were you the lead commissioner between your
12 appointment in January '95 and April of '04?

13 A. I was.

14 Q. To your own knowledge, after the initial
15 implementation of the battery with the tests given and
16 administered in 1996, do you know of any changes made in
17 the battery test from there until when you left?

18 A. I don't.

19 Q. Did you as a commission, understanding you to
20 be one of three commissioners, discuss the battery test
21 as a commission after the initial implementation of it,
22 to your memory?

23 A. I believe -- I believe there was -- there was
24 at least one conference on the subject.

25 Q. Okay. A conference between the commissioners?

1 GEORGE SINNOTT

2 A. Correct -- before the commission, so it would
3 have been somebody requesting a conference and coming in
4 asking for a hearing or an opportunity to discuss a
5 particular issue.

6 Q. Do you have any recollection of what that
7 issue as it pertained to the battery test was?

8 A. I don't.

9 Q. Apart from that occasion, which apparently was
10 initiated by this other party who had an issue she
11 wanted to raise with the commission, if I hear you
12 correctly -- this other party wanted to raise some issue
13 with you all; is that right?

14 A. I assume that's how it got before the
15 commission.

16 Q. Were there any other occasions when the
17 commission as a commission, to your memory, as a group,
18 discussed the battery test?

19 A. You mean just the three commissioners?

20 Q. Yes.

21 A. I don't believe so.

22 Q. Did the commission as a commission get any
23 written reports regarding any aspect of the battery
24 test, to your recollection?

25 A. I don't know.

1 GEORGE SINNOTT

2 Q. You don't know of any at this point?

3 A. I don't know. I don't know.

4 Q. Okay. Was there a commissioner named Margaret
5 Dadd?

6 A. Yes.

7 Q. Did Margaret Dadd at some point have delegated
8 to her any responsibilities with regard to changes in
9 scoring?

10 A. Each of the -- I was president of the New York
11 State Civil Service Commission, and there was myself and
12 two additional commissioners. Each of those
13 commissioners took turns relative to reviewing test
14 content, test item. I'm not -- I don't know the jargon.

15 Q. You never did that?

16 A. No.

17 Q. But between the two of them, they alternated?

18 A. Correct.

19 Q. And that individual who was at that time so
20 responsible, he or she was in charge of working with the
21 staff, is that accurate, in some manner?

22 A. I believe the staff would request any changes
23 to the commission, and either of the other commissioners
24 would review the staff product and request and render
25 determination as to a yea or a nay.

1 GEORGE SINNOTT

2 Q. Can you tell me who the commissioners were
3 that you served with starting in '95, if you remember?

4 A. I do. Virginia Apuzzo, A-P-P-U-Z-O, I think,
5 or A-P-U-Z-Z-O. Virginia Apuzzo. Robert Reardon,
6 R-E-A-R-D-O-N.

7 Q. Ms. Dadd?

8 A. Margaret Dadd. Leo Kesselring.
9 K-E-S-S-E-L-R-I-N-G. I think that might have been it.

10 Q. Okay. And do you happen to know the
11 professional background of any of these people?

12 A. Virginia Apuzzo was the commissioner of the
13 Department of Civil Service prior to my arrival.

14 Q. She was the lead commissioner, in other words?

15 A. Yes.

16 Q. All right.

17 A. And when I was confirmed, she remained on for
18 another two years, I believe, in filling out her full
19 six-year tenure.

20 Q. Okay.

21 A. Her background was she was a top manager in a
22 number of different state agencies under Governor Cuomo.
23 She left the commission to become chief of staff to the
24 president of the United States.

25 Q. Who was?

1 GEORGE SINNOTT

2 A. Bill Clinton.

3 Q. All right. Robert Reardon?

4 A. Commissioner Reardon was -- I don't believe he
5 was the counsel. He was a counsel to the senate
6 majority leader in the New York State Senate prior to
7 being appointed.

8 Q. So he was an attorney?

9 A. Correct.

10 Q. Okay.

11 A. Margaret Dadd was an attorney with a practice
12 in Wyoming, New York. Wyoming County.

13 Q. Do you know what area of the law she worked
14 in?

15 A. I don't.

16 Q. Okay. And you mentioned Leo Kesselring?

17 A. Leo Kesselring was also a lawyer. I'm not
18 familiar with the nature of his law business either or
19 his education.

20 Q. Now, you being the lead commissioner, when
21 Dadd and Kesselring were on the commission, was that a
22 job as such and for which they were compensated?

23 A. They were compensated in the fact that they
24 had term appointments with annualized salaries, and that
25 was one of the duties that they performed.

1 GEORGE SINNOTT

2 Q. Were they allowed to have other jobs at the
3 same time?

4 A. Yes.

5 Q. Okay. But you were not, or were you?

6 A. I don't know if I was or wasn't. I had a --

7 Q. You didn't?

8 A. I had a very full-time job.

9 Q. Right. Do you know whether Mr. Kesselring and
10 Ms. Dadd did conduct their law practices while they
11 served as commissioners?

12 A. I believe they did.

13 Q. Okay. How frequently under your leadership
14 starting in January '95 did the commission as a
15 commission meet?

16 A. They met monthly.

17 Q. And were the meetings public, private, or a
18 combination of both?

19 A. Public.

20 Q. Were there agendas?

21 A. Yes.

22 Q. Do you know who prepared the agendas while you
23 were the lead commissioner?

24 A. The Office of Commission Services.

25 Q. Okay. Apart from the occasion you told us

1 GEORGE SINNOTT

2 about a little bit earlier when someone, to your best
3 recollection, raised an issue that came before the
4 commission regarding the battery test, was the battery
5 test ever the subject of an agenda item of the
6 commission?

7 A. I don't know. I indicated I recall that there
8 was at least one conference. I don't know.

9 Q. Okay.

10 A. Again, that was an area I didn't understand,
11 so I deferred judgment to the other two members.

12 Q. Did you have conversations with the other two
13 commissioners, to your recollection, privately about the
14 battery test?

15 A. Technically?

16 Q. Yes.

17 A. No.

18 Q. Now, on occasion, sir, as the lead
19 commissioner, did you go to the legislature to testify?

20 A. I did annually, if not more.

21 Q. When you gave testimony annually, was it
22 typically before the same body?

23 A. It was the joint legislative committees, that
24 being the Senate Finance Committee and the Assembly Ways
25 and Means Committee.

1 GEORGE SINNOTT

2 Q. Did the battery test ever come up in any of
3 that testimony?

4 A. It did.

5 Q. Do you have any knowledge of when it came up?

6 A. Early on. '97, maybe. I don't know the
7 specific year.

8 Q. How did it come up?

9 A. Assemblyman Arthur Eve.

10 Q. He brought it up, you're saying?

11 A. He did. I might have brought it up first. I
12 always addressed the group prior to being questioned. I
13 would give a synopsis or a briefing as to where we were
14 and where we are at that particular point in time.

15 Q. What did, to your recollection, the
16 assemblyman say?

17 A. The assemblyman said that he had heard that
18 the promotion test battery discriminated against
19 minorities.

20 Q. Was that the first time, to your knowledge, at
21 least, and in your presence, that charge had been
22 publicly made?

23 A. I think so.

24 Q. Was the assemblyman a member of the Assembly
25 Ways and Means Committee at that time?

1 GEORGE SINNOTT

2 A. I don't know.

3 Q. But that's the body you were before?

4 A. That was the body, so --

5 Q. Okay.

6 A. But others were always welcome. I assume he
7 was a member because most people don't go to hearings
8 they don't have to.

9 Q. Did you know Arthur Eve before that?

10 A. No.

11 Q. To your recollection, that was basically the
12 first time you had been in his presence that you are
13 aware of?

14 A. I had been in his presence starting at my
15 first joint commission hearing in 1995.

16 Q. So he was present for '95 and '96?

17 A. And subsequently.

18 Q. Okay. Did you respond to whatever he said?

19 A. I did.

20 Q. What did you say?

21 A. I had indicated that in conversations with my
22 testing -- with my testing professionals, that they were
23 quite confident that that was not the case.

24 Q. Were you accompanied at that time by staff?

25 A. Yes.

1 GEORGE SINNOTT

2 Q. Did the conversation, the colloquy between you
3 and Assemblyman Eve, end at that point?

4 A. We had general discussions about affirmative
5 action, not only with testing, but with staffing, with
6 the number of offices, Civil Service offices throughout
7 the state of New York.

8 Q. So you're saying on that occasion, your
9 discussion went from this issue of the test being
10 discriminatory to other subjects?

11 A. I don't know in this particular instance.
12 Arthur Eve always had questions relative to affirmative
13 action and diversity in the work force.

14 Q. Okay. Did he address these questions to you
15 at any time other than when you were at the hearing?

16 A. There were times when he would ask for
17 specific information or information that I had no or
18 little knowledge of at the time; and I asked him, I
19 believe in every case, that if he had questions, please
20 put them in writing and I would do what I always do, and
21 that would be get back to him in a timely fashion. I
22 always offered to meet with him at any time, any place.

23 Q. Did you ever meet?

24 A. I met once -- we met once prior to one of the
25 annual meetings. I had asked him to recommend somebody

1 GEORGE SINNOTT

2 for me for an office in Buffalo that we were opening up
3 primarily for outreach purposes.

4 Q. You mean to staff the office?

5 A. Yes.

6 Q. Did he do that?

7 A. Actually, he did, and I hired the individual
8 who he recommended, which he was quite puzzled by.

9 Q. He was puzzled that you hired the person?

10 A. Yes. Because we were from different -- he
11 viewed us to be from different sides of the political
12 aisle.

13 Q. You mentioned you were an appointee of
14 Governor Cuomo?

15 A. I was appointed by --

16 Q. Initially.

17 A. I was appointed to the Civil Service
18 Commission by Governor Pataki.

19 Q. Okay. Did any of the other legislators ever
20 raise with you questions about the discriminatory impact
21 of the battery test?

22 MR. KERWIN: Objection to the form of the
23 question.

24 Q. You can answer.

25 A. I have been questioned by -- yes, others.

1 GEORGE SINNOTT

2 Q. Do you know who did raise that issue?

3 A. No. It was -- no.

4 Q. Have you ever had any contact with Assemblyman
5 Peter Rivera?

6 A. No.

7 Q. Earlier in your testimony you mentioned then
8 Comptroller Carl McCall. After the audit which you
9 describe as, I think, having occurred before you became
10 the head of the commission, do you have any knowledge of
11 audits that McCall did of Civil Service? In other
12 words, after you became the commissioner.

13 A. I believe what the process is, is the
14 controller's office does an audit, and following the
15 distribution of that audit, I believe you have 60 days
16 to respond to the controller's audit; and then in some
17 time frame thereafter, they respond to your response and
18 give a general appraisal as to, you know, have you
19 met -- have you met the recommendations that they
20 proffered in their original report audit.

21 Q. But did they do a new audit? Apart from -- I
22 understand the process you just outlined, but did they
23 do a new audit of your agency after you became the lead
24 commissioner -- that's the question -- if you know?

25 A. I don't think so.